

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,) CASE NO. 17-CR-566 (FAB)
Plaintiff,)
)
vs.) JURY TRIAL
)
JEAN CARLOS BENITEZ-MELENDEZ,)
Defendant.)

TRANSCRIPT OF JURY TRIAL (EXTRACT)
HELD BEFORE THE HONORABLE JUDGE FRANCISCO A. BESOSA
SAN JUAN, PUERTO RICO
Tuesday, May 29, 2018

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transcription

Joe Reynosa, CSR, RPR
Official Court Reporter

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(Whereupon, the previous proceedings were reported but not transcribed.)

(PROCEEDINGS RESUMED AT 2:00 P.M.)

THE COURT: Good afternoon. Please be seated.

MR. ALUM: Good afternoon, Your Honor.

MS. VALLDEJULI-PEREZ: Good afternoon, Your Honor.

THE COURT: Mr. Alum.

9 MR. ALUM: Judge, two things. One, we have the
10 stipulations, and they have been signed by myself; by my
11 colleague, Ms. Garcia; by Ms. Valldejuli; and by the
12 Defendant.

13 The other thing I wanted to bring to the Court's
14 attention, and it's a conversation that I had with
15 Ms. Valldejuli during the break, is that we are -- we are
16 aware of the Court's order with respect to the agent's
17 ability to recognize or to identify the Defendant. And as
18 the Government previously represented to the Court, we have
19 no intentions of going into how it is that they were able --
20 or why it is, rather, that they were able to identify the
21 Defendant. That he was a target of other ongoing criminal
22 investigations.

Now, as I mentioned to Ms. Valldejuli, during her cross-examination of the Government witnesses, she should be careful with what she asks because there may -- a question

1 from the Defense may open the door and give the witness no
2 other choice than to go into details that the Court, with the
3 Government's acquiescence, precluded us going into during our
4 direct examination.

5 THE COURT: Well, I am sure that Ms. Valldejuli
6 will be very careful with her cross-examination because she
7 knows that if she -- if that is brought up on
8 cross-examination, that would open the door for you to ask
9 whatever question you deem necessary to ask to clear the
10 matter up.

11 MR. ALUM: And we have instructed our witnesses of
12 the Court's ruling and the witnesses are aware of that.

13 THE COURT: Pardon?

14 MR. ALUM: We have instructed our witnesses of the
15 matters that they should not go into during direct
16 examination with either myself or Ms. Garcia.

17 THE COURT: Ms. Valldejuli, anything on that issue?

18 MS. VALLDEJULI-PEREZ: Well, Your Honor, I agree
19 with him. I understand. I am cautious as to that, as to why
20 he was being looking at on that day, the distance.

21 THE COURT: I don't think that's going to come out,
22 except that they are going to be able to say that they
23 recognized him from -- but I don't think they are going to go
24 in there and say, "There is an ongoing investigation
25 pertaining to your client." That they cannot go into.

1 MS. VALLDEJULI-PEREZ: Exactly. Exactly. That's
2 what I am saying.

3 And as to why they recognize him, I understand the
4 Government has proffered to us that they were given a
5 photograph of him, and that I have no problem with.

6 THE COURT: That they have been in the Yambele Ward
7 on several occasions and know who it is. That's it.

8 MS. VALLDEJULI-PEREZ: That is their testimony, but
9 that wasn't the testimony they proffered to me. But, anyway,
10 that would be their testimony. Exactly.

11 THE COURT: Before we continue, I have a note from
12 a juror. It says, "Honorable Judge Besosa, I have received a
13 call from my husband notifying me that he presented chest
14 pains and high blood pressure, and the doctor sent him to the
15 hospital for exams, and he might be admitted to the hospital.
16 I am asking you to please excuse me from this process so I
17 can with my husband.

18 "Thank you. Juror No. 12."

19 We have alternate jurors. So, unless you have a
20 problem, I am going to excuse Juror No. 12.

21 MS. VALLDEJULI-PEREZ: Your Honor, I have no
22 problem. I have been in that situation before.

23 THE COURT: Mr. Alum?

24 MR. ALUM: No issue.

25 THE COURT: Juror No. 12 is Juror No. 44.

1 MR. ALUM: Okay. No objection.

2 THE COURT: So, therefore, Juror No. 46 becomes
3 part of the regular jury, the first alternate.

4 MR. ALUM: Very well, Your Honor.

5 THE COURT: Would you please excuse Juror No. 12,
6 and thank her for being here. And then tell the alternate
7 Juror No. 1 that she will be on the regular panel, and she
8 will sit in that seat.

9 MS. VALLDEJULI-PEREZ: Your Honor, if I may talk
10 with the Prosecutor, just a moment.

11 (Whereupon, the court security officer stepped out
12 of the courtroom.)

13 MR. ALUM: Your Honor.

14 THE COURT: Yes.

15 MR. ALUM: Just to be clear, because the agents --
16 we anticipate that the police officers are going to testify
17 that when they went to Yambele, they went there for the
18 purpose of collecting intelligence on the Defendant. They
19 are not going to say why. But Your Honor mentioned that they
20 weren't going to mention that he is under investigation, and
21 we don't anticipate them to say that in so many words.

22 However, from the Government's perspective, it is
23 relevant, and it was in our response to the Defense's *in*
24 *limine*, and it is part of the overall story that they went
25 there specifically to collect information on Mr. Jean Carlos

1 Benitez.

2 THE COURT: Can you put it that way instead of
3 "intelligence"?

4 MR. ALUM: To collect --

5 THE COURT: -- information.

6 MR. ALUM: We don't see a problem with it,
7 Your Honor. We just want to be sure that our witnesses are
8 clear as to that. So if the Court would just perhaps indulge
9 us for a minute so that we --

10 THE COURT: Sure.

11 MR. ALUM: Thank you.

12 (Whereupon, Prosecution Counsel stepped out of the
13 courtroom.)

14 MR. ALUM: We are ready, Your Honor.

15 THE COURT: Bring the jury in, please.

16 (Whereupon, the following proceedings were held in
17 the presence of the jury:)

18 THE COURT: Good afternoon. Please be seated,
19 ladies and gentlemen.

20 As I told you before we took the lunch break, we
21 will begin now with the statements.

22 Mr. Alum.

23 MR. ALUM: Thank you, Your Honor.

24 A convicted felon threw a rifle out the window of a
25 car in which he was riding and shot at police officers. The

1 evidence is going to show that the person who did this is the
2 Defendant (indicating), Jean Carlos Benitez. And that,
3 ladies and gentlemen, that's why we are here today.

4 The evidence is going to show that on November 2nd,
5 2017, Puerto Rico Police Department Agent Arnaldo Monroig and
6 Agent Santiago went to the Yambele Ward in San Juan to obtain
7 information on Jean Carlos Benitez-Melendez.

8 As they were leaving Yambele Ward, they observed a
9 gray Suzuki. They observed the passenger of this gray Suzuki
10 open his door and display a rifle. They immediately
11 recognized this person displaying the rifle as Jean Carlos
12 Benitez-Melendez (indicating).

13 The reason they were able to identify this person
14 as Jean Carlos Benitez-Melendez is because they had seen
15 photographs of him on multiple prior occasions.

16 After seeing the Defendant displaying a rifle,
17 Agent Monroig communicated what he had observed to other
18 police officers over the police radio and a vehicle pursuit
19 followed. And during the course of this vehicle pursuit,
20 Agents Monroig and Santiago observed the Defendant throw
21 several items out the front passenger window of the Suzuki in
22 which he was riding. Among these items were two rifles with
23 rounds of ammunition.

24 A while later, they observed the Defendant shoot at
25 them with a pistol. And you are going to hear from them,

1 they are going to tell you what happened. They shot back in
2 self-defense.

3 At the end of the day, Agents Monroig and Santiago
4 lost sight of the vehicle. He and the driver of the Suzuki
5 stopped near the San Fernando Public Housing Project and took
6 refuge in that *residencial*, in that public housing project.
7 And the next day, on November 3rd, law enforcement arrested
8 the Defendant in Yambele in his home.

9 Now, ladies and gentlemen, you are going to see the
10 rifles and the rounds of ammunition that Mr. Benitez-Melendez
11 threw from the window of the vehicle in which he was riding.

12 The evidence is going to show that one of these
13 rifles was a machine gun, and the evidence is going to show
14 that Mr. Benitez knew that one of these rifles was a machine
15 gun because he had prior experience with firearms.

16 The evidence is going to show that the rifles and
17 the rounds of ammunition that Mr. Benitez threw from the
18 window of the Suzuki were not manufactured in Puerto Rico,
19 and neither was the unrecovered pistol that he used to shoot
20 at police officers.

21 After hearing from all the witnesses in this case,
22 ladies and gentlemen, and after seeing all the evidence, I am
23 going to come back before you, and I am going to ask you to
24 find the Defendant guilty. Guilty of being a convicted felon
25 in possession of firearms and rounds of ammunition, and

1 guilty of possessing a machine gun.

2 THE COURT: Ms. Valldejuli.

3 MS. VALDEJULI-PEREZ: Good afternoon, ladies and
4 gentlemen. This case is about what happened only, only on
5 November 2nd, on the evening of November 2nd of 2017 in the
6 Yambele Ward in Rio Piedras, Puerto Rico.

7 On the evening of November 2nd, 13 miles away from
8 Yambele Ward neighborhood in Rio Piedras, Jean Carlos was
9 having sexual relations with a married woman in Bayamón,
10 unaware that there was a call for his arrest or engaging in
11 any kind of illegal arms deals.

12 He was not avoiding the law on November 2nd of
13 2017. He was not avoiding the law.

14 Meanwhile, when he was in Bayamón, in an unmarked
15 vehicle, two state police detectives alleged that they went
16 to the Yambele neighborhood in Rio Piedras looking for Jean
17 Carlos based on a photograph that had been shown to them
18 before.

19 As they approached the scene, they allege that they
20 saw a black man at a distance, armed with a rifle, sitting at
21 the passenger's side of a gray Suzuki compact car. They
22 decided to call the patrol car to intercept the gray Suzuki
23 to confirm their suspicion, that Jean Carlos was the black
24 man that was seated in the passenger's side of the car.

25 As the patrol car attempted to approach the

1 vehicle, the gray Suzuki fled the scene, not allowing the
2 detectives to confirm their suspicion.

3 As the short-lived chase progressed towards Bulon
4 Street, the state police detectives claim the unidentified
5 subject tossed a black bag and some rifles out the window.

6 Shortly after this incident, the police claim that
7 the unidentified black man opens fire towards them, and the
8 police detectives responded with fire.

9 The gray Suzuki came to a full stop at Bulon
10 Street. And the subject in question left the scene, fled
11 from the scene on foot towards the San Fernando Public
12 Housing Project that was near. The two state police
13 detectives follow on foot, losing them shortly after they
14 enter the public housing project.

15 Ladies and gentlemen, these are the facts of this
16 case. The two state police detectives never had a chance to
17 clearly, clearly identify the subject that they were
18 following.

19 After the chase concluded and the subjects
20 successfully fled the scene, the two detectives failed to
21 conduct a proper investigation of the scene to provide us
22 with enough evidence that proved the person involved in the
23 chase was actually Jean Carlos.

24 The evidence you will see during these couple of
25 days clearly demonstrates their negligence on collecting

1 proper information to correctly, correctly identify and place
2 Jean Carlos in the scene.

3 I will demonstrate that there is reasonable doubt
4 as to the truth and veracity of the events of November 2nd,
5 2017, that occurred at the Yambele Ward neighborhood in
6 Rio Piedras, Puerto Rico.

7 THE COURT: Mr. Alum, your first witness, please.

8 MR. ALUM: Your Honor, at this time the Government
9 calls Police Sergeant Wilson Torres.

10

11 **WILSON TORRES-RIVERA,**

12 after having been first duly

13 sworn or affirmed upon oath, was examined

14 and testified as follows:

15

16 THE COURT: Sergeant Torres, because you will be
17 testifying in Spanish, there may be times when the
18 interpreter will ask you to stop your testimony so that he
19 can interpret it into English for the record.

20 Do you understand that?

21 THE WITNESS: Yes.

22 THE COURT: Go ahead, Mr. Alum.

23 MR. ALUM: Thank you, Your Honor.

24

25 **DIRECT EXAMINATION**

Joe Reynosa, CSR, RPR
Official Court Reporter

1 BY MR. ALUM:

2 Q Sir, would you please state your full name for the
3 record.

4 A Sergeant Wilson Torres-Rivera.

5 Q What do you do for a living?

6 A I work with the Police of Puerto Rico.

7 Q Are you assigned to a particular unit?

8 A To the Criminal Intelligence Division.

9 Q And what are your responsibilities with the Criminal
10 Intelligence Division?

11 A Currently I am the director. My duties include to
12 direct and supervise the agents and supervise investigations
13 that are being conducted.

14 Q And for how long have you been -- how long have you been
15 a police officer?

16 A 11 years.

17 Q And how long have you been with the Criminal
18 Intelligence Division?

19 A Three years ago.

20 THE COURT: Since when have you been the director?

21 THE WITNESS: Three years.

22 BY MR. ALUM:

23 Q Now, Sergeant Torres, I am going to direct your
24 attention to the date of November 2nd, 2017.

25 Did you work that day?

1 A Yes.

2 Q And what, if anything, did you do that day that brings
3 you to testify in court here today?

4 A I didn't understand.

5 Q Did you prepare any document on November 2nd, 2017?

6 A Yes.

7 Q What document did you prepare on November 2nd, 2017?

8 A A work plan.

9 Q And just very briefly, what is a work plan?

10 A Well, the work plan is a plan that we prepare of the
11 mission that we have day-to-day. And it's the work plan that
12 we prepare that the agents are going to be working with, just
13 like we did that day, that we are going to be working in the
14 Yambélé Ward.

15 And that work plan, the functions that the agents
16 are going to be performing are included, just as the units
17 that they are going to be in.

18 Q And for what purpose --

19 THE COURT: When you say "units," you mean
20 vehicles?

21 THE WITNESS: Yes, the vehicles.

22 BY MR. ALUM:

23 Q And what types of vehicles?

24 A The unmarked vehicles, the unmarked vehicles, just as
25 the patrol vehicles.

1 Q And why Yambele, specifically?

2 A On that day we were going to locate a home that we had
3 information that Mr. Jean Carlos Benitez lived in.

4 Q And how many agents were going to participate in
5 executing that plan that day?

6 A Approximately 10 to 12 agents. Approximately.

7 MR. ALUM: Your Honor, without objection from the
8 Defense, the Government is moving into evidence Government ID
9 123 as Government Exhibit 123.

10 THE COURT: Any objection, Ms. Valldejuli?

11 MS. VALLDEJULI-PEREZ: No, Your Honor.

12 THE COURT: Admitted as Government Exhibit 123.

13 Let me tell something to the jury.

14 You realize that we haven't seen 1, 2, 3, or 4, up
15 to 122. The Government has certain documents that it wants
16 to introduce into evidence, and each one of them has an ID
17 number. And the ID number in this particular document is
18 123.

19 Just because he wants to present it first doesn't
20 mean that it becomes Exhibit 1. It remains with the same
21 number because it's much easier for us to enter it on the
22 docket with the same number instead of changing the number.
23 The other way gets confusion.

24 So, really, you don't have to worry about the
25 number of the exhibit, just the exhibit itself.

1 Go ahead, Mr. Alum.

2 MR. ALUM: Thank you, Your Honor.

3 BY MR. ALUM:

4 Q Sergeant Torres, I am showing you here what's now been
5 admitted as Government Exhibit 123.

6 Do you recognize the photograph on your screen,
7 sir?

8 A Yes.

9 Q What is it?

10 A The picture of Jean Carlos Benitez.

11 Q And, now, Sergeant Torres, prior to November 2nd, 2017,
12 had you seen that photograph?

13 A Yes.

14 Q And where had you seen it?

15 A In the Intelligence Division, in my office.

16 Q Now, Sergeant Torres, under the plan that you prepared,
17 who specifically was responsible for collecting the
18 information regarding Jean Carlos Benitez that you previously
19 testified to?

20 A Yes. There were two agents in charge of working the
21 information. It was Officer Santiago and Officer Monroig.

22 Q And Officer Santiago, is his first name Luis?

23 A Yes. Luis Santiago-Malave.

24 Q And Agent Monroig, is his first name Arnaldo?

25 A Yes.

1 Q And to your knowledge, did Agents Monroig and Arnaldo
2 collect the information they were supposed to collect under
3 the terms of the plan that you prepared?

4 THE INTERPRETER: The interpreter needs a
5 repetition of the question.

6 BY MR. ALUM:

7 Q To your knowledge, did Agents Monroig and Santiago
8 collect the information that they were supposed to obtain
9 according to the plan that you prepared?

10 A Yes. Yes.

11 MR. ALUM: May I have a moment, Your Honor?

12 THE COURT: Yes, you may.

13 (Whereupon, an off-the-record discussion was held
14 between the Prosecution counsel.)

15 MR. ALUM: Judge, we have no further questions for
16 Sergeant Torres.

17 THE COURT: Any cross-examination, Ms. Valldejuli?

18 MS. VALLDEJULI-PEREZ: No, Your Honor.

19 THE COURT: Sergeant Torres, thank you for your
20 testimony. You are excused.

21 (Witness excused.)

22 MR. ALUM: Judge, at this time the Government calls
23 Puerto Rico Police Department Agent Luis Santiago-Malave.

25 **LUIS SANTIAGO-MALAVE,**

after having been first duly sworn or affirmed upon oath, was examined and testified as follows:

MS. GARCIA-JIMENEZ: With the permission of the Court, Your Honor.

THE COURT: You may proceed, Ms. Garcia.

MS. GARCIA-JIMENEZ: For the record, SAUSA Camille Garcia-Jimenez.

DIRECT EXAMINATION

BY MS. GARCIA-JIMENEZ:

Q Good afternoon, agent.

A Good afternoon.

Q Can you please state your name for the record, please.

A Agent Luis A. Santiago-Malave, 36550.

THE COURT: That's your badge number?

THE WITNESS: Correct.

BY MS. GARCIA-JIMENEZ:

Q Where do you work, agent?

A Puerto Rico Police.

Q And you work at the police department since when?

A Approximately seven years..

Q Right now you are working where?

A Drug Division San Juan.

Q And you are working at the Drug Division in San Juan

1 since when?

2 A Approximately two years and a half.

3 Q On November 2nd, 2017, you were working where?

4 A Drug Division San Juan.

5 Q In order for you to be working at the Police Department
6 of Puerto Rico, did you take any trainings?

7 A That's correct.

8 Q What type of trainings did you take?

9 A Identification of controlled substances, identification
10 of firearms, among other trainings.

11 Q Okay. Were you working on November 2nd, 2017?

12 A Correct.

13 Q With who were you working?

14 A Drug Division San Juan in a joint work with the San Juan
15 CIC.

16 Q What happened on that day that brings you here to
17 testify here today?

18 A That day we had a work plan jointly with the
19 intelligence of the CIC. This plan was regarding the
20 boundaries of the home of a person by the name Jean Carlos
21 Benitez-Melendez.

22 Q When you say *colindancias*, what does that mean?

23 A That means locating residences and also the description
24 of it.

25 Q You mentioned Jean Carlos Benitez-Melendez; correct?

1 A Correct.

2 Q Do you see him here?

3 A The gentleman here to my left (indicating).

4 THE COURT: Could you state what he is wearing.

5 THE WITNESS: Right now he has a long-sleeve shirt.

6 I believe it's a gray color.

7 MS. GARCIA-JIMENEZ: For the record, Your Honor, he
8 has identified the Defendant.

9 BY MS. GARCIA-JIMENEZ:

10 Q Prior from today, did you see Mr. Jean Carlos Benitez
11 before?

12 A Yes.

13 Q Where?

14 A On November 2nd.

15 Q And before that?

16 A In pictures.

17 Q In pictures where?

18 A In the Drug Division of San Juan.

19 MS. GARCIA-JIMENEZ: Showing Government
20 Exhibit 123.

21 BY MS. GARCIA-JIMENEZ:

22 Q This picture that you just mentioned, where was this
23 picture?

24 A In the Drug Division San Juan.

25 Q The Drug Division; correct?

1 A Correct.

2 Q And prior to November 2nd, 2017, you saw the picture
3 that you mentioned how many times?

4 A Over 15, 20 times.

5 Q Okay. Showing you Government Exhibit 123.

6 Do you recognize that picture?

7 A Yes.

8 Q Okay. Can you explain to the jurors what is that
9 picture.

10 A This is a picture of Jean Carlos Benitez-Melendez.

11 Q How does this photograph compare to the picture that you
12 mentioned before that you had seen more than 15 --

13 A The same.

14 THE COURT: Wait for the question.

15 THE WITNESS: I am sorry.

16 BY MS. GARCIA-JIMENEZ:

17 Q -- more than 15 times. How does that compare?

18 A The same.

19 Q And who is the person in that picture?

20 A Jean Carlos Benitez-Melendez (indicating).

21 MS. GARCIA-JIMENEZ: For the record, Your Honor, he
22 just pointed at the Defendant.

23 BY MS. GARCIA-JIMENEZ:

24 Q So you went on November 2nd where?

25 A To the Yambele Ward.

1 Q And how did you get there?

2 A I got there in an unmarked vehicle.

3 Q Who was with you?

4 A Officer Arnaldo Monroig-Vega, passenger, and I was the
5 driver.

6 Q Okay. And during afternoon hours, what happened?

7 A During the afternoon, we met with Sergeant Wil Torres
8 from Intelligence. They told us that we would go to the
9 Yambele Ward to the location of the home.

10 Q And what happened?

11 A At approximately 5:35, we got to the Yambele Ward, and
12 we started to locate the home.

13 Q This plan was going to be done with approximately how
14 many agents?

15 A Over 10.

16 THE COURT: Sir, when say 5:35, you mean in the
17 afternoon?

18 THE WITNESS: Correct. In the afternoon,
19 Your Honor.

20 THE COURT: Go ahead.

21 BY MS. GARCIA-JIMENEZ:

22 Q So did you found -- did you find the help that you were
23 looking for?

24 A That's correct.

25 Q And what happened?

1 A Pictures started to be taken, and the information was
2 taken regarding the boundaries of the home, the location.
3 Arnaldo Monroig was the officer who took the pictures.

4 Q And then?

5 A At approximately 5:15 in the afternoon, we started to
6 leave the Yambele Ward. The street that gives access to the
7 home we located is the Pablo Pillot Garcia, and this is a
8 street that's a cul-de-sac.

9 Q And what happened?

10 A Well, since I was the driver of the vehicle, we got into
11 the vehicle. I also got into the vehicle, together with
12 Officer Monroig, and we started to back up the vehicle in
13 order to get out of that street.

14 While I am backing up the vehicle, I reached the
15 intersection of Street Pablo Vega Santos. And that's where I
16 see to my left, at approximately 30 to 35 feet of distance, I
17 see at the intersection of the Pablo Vega Santos Street and
18 the Santiago Carrera Street, that's where I noticed a Suzuki
19 vehicle, an SX4, a gray Suzuki vehicle.

20 Q That Suzuki vehicle was moving or was --

21 A When I see it for the first time, it was moving, but it
22 stopped at the intersection -- it parked at the intersection.

23 Q And what happened?

24 A And what I could see, Your Honor, was the right profile
25 of the Suzuki SX4.

1 Q That side that you were seeing, was it the passenger's
2 side or the driver's side?

3 A Passenger's side.

4 Q And what happened?

5 A And I noticed that the front passenger's side window was
6 down, and I see that the front passenger of that vehicle was
7 Jean Carlos Benitez-Melendez.

8 Q That person that you saw on November 2nd in that
9 passenger's side, do you see him here?

10 A Yes, correct. Jean Carlos Benitez-Melendez. At that
11 time he was wearing a black T-shirt.

12 Q And what happened?

13 A And he proceeds to stay, looking at my unmarked vehicle.
14 And he proceeds to open the front passenger door. He takes
15 out his right leg. And that's where I could see that he had
16 in his hands a carbon 15 type rifle, black.

17 Q How confident are you that the person that you saw was
18 Jean Carlos Benitez-Melendez?

19 A 100 percent sure.

20 Q And you were dressed how?

21 A I was in civilian clothes.

22 Q So you saw that it was Jean Carlos Benitez. And what
23 happened?

24 A My first reaction when I see the gentleman is, "That's
25 Jean. That's Jean." The same thing that Agent Monroig tells

1 me.

2 Q And Monroig was sitting where?

3 A In the front passenger's seat next to me.

4 Q Okay. And after you saw that he was carrying a rifle --

5 A Correct.

6 Q -- what happened?

7 A He proceeds to move the vehicle. The vehicle starts
8 moving and goes in the direction of the Pablo Vega Santos
9 Street.

10 Q What did you proceed to do?

11 A We proceed to follow him. And Officer Monroig starts
12 informing what we had seen, that we had seen Jean Carlos
13 Benitez-Melendez and he had a firearm and that he was in a
14 Suzuki SX4 and that he should be stopped.

15 THE COURT: What do you mean by "he was informing"?

16 THE WITNESS: That Officer Monroig was informing
17 through the radio, the police radio to all the other police
18 officers that were working with us in the work plan of what
19 was happening.

20 BY MS. GARCIA-JIMENEZ:

21 Q Okay. Why didn't you stop that car?

22 A I am in an unmarked vehicle, so I don't have any sirens
23 or any police lights, so I can't stop him.

24 Q Okay. So you start following the Suzuki. And what
25 happened?

1 A Well, the Suzuki reaches the intersection with the Julio
2 Aybar, and then an unmarked vehicle that was together with us
3 in the work plan, the unmarked vehicle of Officer Emanuel
4 Torres, he was coming towards the front of the Suzuki SX4.
5 The SX4 begins to avoid that vehicle, running over the
6 sidewalk, which would be on the right side on the Julio Aybar
7 Street. And this is already in Santiago Iglesias Ward.

8 Q Okay. Between Yambele Ward and this intersection that
9 you just mentioned, we are talking about how many -- how much
10 time?

11 A Nothing. Seconds. They are one right next to the
12 other. It's just a street, which is the boundary between the
13 ward and the Santiago Iglesias development.

14 Q Okay. So after the Suzuki -- after the unmarked vehicle
15 of Agent Torres tried to stop this car, what happened?

16 A He goes on the sidewalk.

17 Q Who?

18 A Jean Carlos Benitez-Melendez in the Suzuki SX4.

19 Q And what happened?

20 A And then I begin chasing him also going on the sidewalk,
21 and I proceed to chase the vehicle going on Santiago Carrera
22 Street, at the Santiago Carrera Street but in development
23 Santiago Iglesias.

24 Q And what happened?

25 A Well, following him, chasing him. And halfway through

1 Santiago Iglesias Street is where I could see that the
2 passenger, Jean Carlos -- being the front passenger, Jean
3 Carlos Benitez-Melendez, threw out what I could see was a
4 black and beige carbon 15 type rifle. And I could see that
5 he threw it out the window.

6 He then throws out a black bag. This is
7 practically happening in seconds, one right after the other.
8 After the black bag, he then throws out a carbon 15 rifle,
9 which was identical to the one that I had seen he was
10 carrying when I saw him for the first time.

11 Q Okay. These items that you just mentioned here, aside
12 from seeing them coming out of the car on November 2nd, were
13 you able to see these items after that?

14 A Yes.

15 Q Where?

16 A In the Drug Division San Juan.

17 Q If I show you those items, would be you able to
18 recognize them?

19 A That's correct.

20 MS. GARCIA-JIMENEZ: Your Honor, if I may.

21 Your Honor, without objection from the Defense, we
22 are going to ask the Court to accept this as Exhibit 124 of
23 the Government, Your Honor.

24 THE COURT: What is "this"?

25 MS. GARCIA-JIMENEZ: This is a rifle, black.

1 THE COURT: Black and tan rifle?

2 MR. ALUM: Correct, Your Honor.

3 THE COURT: Any objection, Ms. Valldejuli?

4 MS. VALLDEJULI-PEREZ: No, Your Honor.

5 THE COURT: Is that rifle secured?

6 MS. GARCIA-JIMENEZ: Yes, Your Honor.

7 THE COURT: Marshal?

8 THE MARSHAL: (Nods affirmatively.)

9 BY MS. GARCIA-JIMENEZ:

10 Q Agent, showing you Exhibit 124 from the Government.

11 Do you recognize this?

12 A Yes.

13 THE COURT: Let him have it.

14 MS. GARCIA-JIMENEZ: Permission to approach the
15 witness, Your Honor.

16 BY MS. GARCIA-JIMENEZ:

17 Q Do you recognize that Exhibit 124?

18 A Yes.

19 Q You have seen that before?

20 A Yes.

21 Q When?

22 A In the Division, and then I saw Jean Carlos
23 Benitez-Melendez throw it out of the SX4 gray Suzuki vehicle.
24 This is the first one he threw out.

25 Q And that was on November 2nd, 2017?

1 A Correct.

2 MR. ALUM: Your Honor, with the Court's permission,
3 we would like the jury to able to inspect this.

4 THE COURT: Mr. Ortiz, if you please publish it to
5 the jury by showing it to them.

6 (Whereupon, Government Exhibit 124 was published
7 for the jury.)

8 BY MS. GARCIA-JIMENEZ:

9 Q Agent, you also mentioned that you saw Mr. Jean Carlos
10 Benitez, you saw him throwing a black bag.

11 A Yes.

12 MS. GARCIA-JIMENEZ: Obviously, without objection
13 of the Defense, Your Honor, this would be Exhibit 125 from
14 the Government.

15 THE COURT: Any objection, Ms. Valldejuli?

16 MS. VALLDEJULI-PEREZ: No, Your Honor.

17 THE COURT: Without objection, admitted as
18 Exhibit 125. Which is what?

19 MS. GARCIA-JIMENEZ: It's a black bag, Your Honor,
20 Adidas black bag.

21 THE COURT: Adidas?

22 MS. GARCIA-JIMENEZ: I mean Nike black bag,
23 Your Honor.

24 BY MS. GARCIA-JIMENEZ:

25 Q Showing you Exhibit 125.

1 MS. GARCIA-JIMENEZ: Permission to approach the
2 witness, Your Honor?

3 THE COURT: You may.

4 BY MS. GARCIA-JIMENEZ:

5 Q Without the contents of this bag, do you recognize this?

6 A Yes, I recognize it.

7 Q From where?

8 A This is the black bag that I saw Jean Carlos
9 Benitez-Melendez throw out on November 2nd.

10 Q After you saw him throwing that bag out of the car, the
11 next time saw that bag was when?

12 A Drug Division San Juan.

13 MS. GARCIA-JIMENEZ: Your Honor, without objection
14 of the Defense, we would like to the Court to admit as
15 Government Evidence 126. It's a black rifle.

16 THE COURT: Any objection, Ms. Valldejuli?

17 MS. VALLDEJULI-PEREZ: No, Your Honor.

18 THE COURT: Without objection, admitted as
19 Exhibit 126. It's a black rifle.

20 MS. GARCIA-JIMENEZ: Black with blue, Your Honor,
21 serial number NS107462.

22 May I approach the witness, Your Honor?

23 THE COURT: Yes, you may.

24 BY MS. GARCIA-JIMENEZ:

25 Q Agent, showing you Government Exhibit 126. Please

1 inspect that.

2 A (Witness complies.)

3 Q Do you recognize that?

4 A Yes.

5 Q From where?

6 A This is the black carbon 15 rifle that I saw Jean Carlos

7 Benitez throw out on November 2nd.

8 Q Before seeing him throwing that out the window, before

9 that, you ever saw that rifle?

10 A After or before?

11 Q Before.

12 A Before him?

13 Q Before --

14 A Yes.

15 Q When?

16 A When I saw him for the first time.

17 Q Okay. After you saw Jean Carlos Benitez throwing that

18 out of the window, did you ever saw that rifle again?

19 A Yes. In the Drug Division San Juan.

20 MS. GARCIA-JIMENEZ: Your Honor, permission to

21 publish this rifle.

22 THE COURT: Mr. Ortiz, please.

23 (Whereupon, Government Exhibit 126 was published

24 for the jury.)

25

1 BY MS. GARCIA-JIMENEZ:

2 Q You mentioned that you were in hot pursuit after Jean
3 Carlos; correct?

4 A Correct.

5 Q So what happened after you see that he threw all of
6 these items out of the window of the car?

7 A Well, yes, after I saw that he threw out the black rifle
8 out the window, which was the last rifle that I saw him throw
9 out, I saw that the gray Suzuki, the SX4, opens up in the
10 Santiago Carrera reaching the intersection with Street
11 Antonio Arroyo.

12 THE COURT: What do you mean by "se abrió"?

13 THE WITNESS: Well, what I mean that he opens up is
14 that he goes towards his left. He takes the vehicle towards
15 his left all the way, almost up to the sidewalk where he is
16 reaching the Antonio Arroyo Street, and he goes like this
17 (demonstrating). And that's when he opens up when he reaches
18 Antonio Carrera Street, and once again, the right side of the
19 vehicle, of the gray Suzuki SX4, is facing me.

20 BY MS. GARCIA-JIMENEZ:

21 Q When you say the "right side," is that the passenger's
22 side?

23 A Correct.

24 Q Okay. What happened?

25 A And that's when I see Jean Carlos Benitez-Melendez with

1 both his hands and he is pointing a pistol towards us.

2 Q Okay. Let me ask you something, on that day, how was
3 the clarity?

4 A It was clear.

5 MS. GARCIA-JIMENEZ: Permission to publish
6 Exhibit 98 from the Government, Your Honor, without objection
7 of the Defense.

8 THE COURT: Any objection?

9 MS. VALLDEJULI-PEREZ: No objection, Your Honor.

10 THE COURT: Go ahead. Exhibit 98.

11 What is it?

12 BY MS. GARCIA-JIMENEZ:

13 Q Agent, please examine that picture, that exhibit.

14 Do you recognize that area?

15 A Yes. That's the Santiago Carrera with the intersection
16 of Antonio Arroyo.

17 Q Okay. Just to clarify, what happened on this
18 intersection, agent?

19 A Well, that's when I see, when reaching the intersection,
20 that the gentleman here, Jean Carlos Benitez-Melendez, with
21 both his hands was pointing a pistol towards me, towards the
22 unmarked vehicle, and he shot several times toward us. And
23 part of that firearm that he had, part of that pistol, that
24 firearm, it was pointing out. It went a little bit out of
25 the vehicle, out the window of the vehicle.

1 Q Okay. Can you mark in this picture approximately the
2 position where Jean Carlos or the Suzuki gray was car, and
3 your car, the one that you were driving.

4 A (Witness complies.)

5 Q And your car?

6 A (Witness complies.)

7 Q Exactly where you made that circle, there is a number 1.

8 A That's correct.

9 Q Do you know what it is?

10 A It's a shell.

11 Q Okay. So after you saw that Jean Carlos was pointing at
12 you -- and he shot at you; correct?

13 A Correct.

14 Q What happened?

15 A I proceeded to take my shot, and Officer Monroig also
16 made several shots.

17 Q You were driving; correct?

18 A That's correct.

19 Q And how did you shoot?

20 A Through the window.

21 Q Which window?

22 A The front -- with the front window of the unmarked
23 vehicle.

24 Q Of the car that you were driving?

25 A Correct, the unmarked vehicle. A red Toyota Yaris.

1 Q Okay. And after that what happened?

2 A We continued --

3 THE COURT: Excuse me. You shot through the
4 windshield?

5 THE WITNESS: Correct. My reaction was, when he
6 was shooting me, that I had to take out my firearm and shoot
7 back at him.

8 THE COURT: Okay. Go ahead.

9 BY MS. GARCIA-JIMENEZ:

10 Q What happened then?

11 A We continued chasing the vehicle, the gray Suzuki SX4,
12 and Jean Carlos Benitez-Melendez.

13 Q And what happened?

14 A He turns right at the next intersection, and we
15 continued chasing him. And that was approximately to the
16 intersection with street N Bulon. The street N Bulon goes
17 into housing project San Fernando.

18 Q Okay. What happened there?

19 A And that's where I noticed that the Suzuki SX4 vehicle
20 had already gained distance from me. Then the vehicle parks
21 in the N Bulon Street, and I was approximately about a
22 hundred feet. And that's where I see that the driver of the
23 vehicle comes out of the vehicle. It was a person dressed in
24 black, short, and dark-skinned. And this person takes off
25 running, and that's when I see Jean Carlos Benitez-Melendez

1 getting out of the front passenger's side of the gray Suzuki
2 SX4, also fully dressed in; black, black T-shirt, black
3 pants.

4 He takes off turning right in N Bulon Street, and
5 that's where I parked the vehicle, in the back, practically
6 next to the gray Suzuki SX4. And that's when I get out of my
7 vehicle, and I start chasing, running after Jean Carlos
8 Benitez-Melendez, who turns left, jumps a fence, and gains
9 access to the San Fernando Housing Project.

10 Q How sure are you that the person that was sitting in the
11 passenger's side was Jean Carlos?

12 A 100 percent sure.

13 Q What happened to the driver of that car?

14 A I lost him from sight. That's the first person that got
15 out of the vehicle, and I didn't see him again.

16 Q Okay.

17 MS. GARCIA-JIMENEZ: Showing Government Exhibit 39,
18 without objection of the Defense, Your Honor.

19 THE COURT: Any objection, Ms. Valldejuli?

20 MS. VALLDEJULI-PEREZ: No, Your Honor.

21 THE COURT: This is exhibit?

22 MS. GARCIA-JIMENEZ: 39.

23 BY MS. GARCIA-JIMENEZ:

24 Q Agent, showing you Government Exhibit 39, do you
25 recognize that picture?

1 A Yes, I recognize it.

2 Q Can you explain what can we see in that picture or what
3 are we seeing in that picture?

4 A This is the gray Suzuki SX4 where Jean Carlos
5 Benitez-Melendez was in. And more to the left, that's the
6 intersection with street N Bulon.

7 Q And can you tell us where was your car parked.

8 A At that specific time?

9 Q When you were chasing him. When you decided to stop the
10 car.

11 A Can I mark it?

12 Q Yes.

13 A (Witness indicates.)

14 Q We see this picture, and this picture, it's already --
15 it's dark.

16 A Correct.

17 Q Can you explain that?

18 A That's approximately after 6:00 in the afternoon, after
19 7 o'clock in the evening, where technical services got to the
20 area. That's why it's dark.

21 Q So do you know how much time did technical service
22 took -- how much time did it take for technical service take
23 to arrive?

24 A Not specifically. I couldn't tell you specifically, but
25 it took some time.

1 Q And that street that we see on the left side of the
2 picture, what is it?

3 A That's N Bulon Street.

4 Q If you keep on going that street, you are going to find
5 what?

6 A Housing Project San Fernando.

7 Q Okay. So after you lost sight of Jean Carlos, what
8 happened?

9 A I proceeded to stop the chase because of my safety and
10 the safety of my fellow officer, because we were alone. We
11 were alone at that moment, and there was no cooperation.

12 Q Okay. So why didn't you follow Jean Carlos?

13 A For my safety.

14 Q Did eventually the other cars arrive?

15 A Correct, yes.

16 Q So what else happened?

17 A After that I proceeded to move the Toyota Yaris vehicle
18 that was next to the Suzuki SX4, and I moved it further
19 ahead, since it was blocking the street.

20 Q And what happened?

21 A I proceeded to visually verify the Suzuki SX4.

22 Q Okay. Why did you only observe the vehicle?

23 A Because it's a scene.

24 Q Okay. Did you notice anything in that car?

25 A Yes.

1 Q What?

2 A A rifle round.

3 MS. GARCIA-JIMENEZ: Permission to publish
4 Exhibit 78, Your Honor, from the Government, without
5 objection of the Defense.

6 THE COURT: Any objection, Ms. Valldejuli?

7 MS. VALLDEJULI-PEREZ: No, Your Honor.

8 THE COURT: Without objection, admitted as
9 Exhibit 78.

10 BY MS. GARCIA-JIMENEZ:

11 Q Agent, showing you Government Exhibit 78, what is that?
12 What can be seen in that picture?

13 A This is the back part of the Suzuki SX4 vehicle.

14 Q Can you see something? You just mentioned that you saw
15 a bullet.

16 A Yes.

17 Q Can you tell us what do you see he in that picture.

18 A Yes. A rifle bullet in this area (indicating).

19 MS. GARCIA-JIMENEZ: Permission to publish
20 Government Exhibit 79, Your Honor, without objection of the
21 Defense.

22 THE COURT: Any objection?

23 MS. VALLDEJULI-PEREZ: No, Your Honor.

24 BY MS. GARCIA-JIMENEZ:

25 Q Agent, please analyze that picture, Government

1 Exhibit 79.

2 Can you tell us what you see there.

3 A A rifle bullet.

4 Q And that is the picture from where?

5 A That's the back part, that's the carpet area of the gray
6 Suzuki SX4. That would be behind the passenger seat.

7 Q Okay. Besides the two rifles that are admitted into
8 evidence and the bag, do you have knowledge that some other
9 items were seized that day?

10 A Yes.

11 Q What other items?

12 A A rifle charger and rifle bullets.

13 Q The bullets that were seized, how do they compare to the
14 bullet that we are seeing in Exhibit 79?

15 A The same.

16 Q The same what?

17 A The same caliber.

18 Q Which is what?

19 A I don't remember very well. I believe it's 223.

20 Q Okay. And after the pictures were taken from the car,
21 what happened?

22 A After that, a sergeant from Puerto Nuevo arrived and
23 took down the information.

24 MS. GARCIA-JIMENEZ: Permission to publish

25 Government Exhibit 20 without objection of the Defense,

1 Your Honor?

2 THE COURT: Any objection, Ms. Valldejuli?

3 MS. VALLDEJULI-PEREZ: No, Your Honor.

4 THE COURT: Without objection, admitted as
5 Exhibit 20.

6 BY MS. GARCIA-JIMENEZ:

7 Q You mentioned before that you discharged your firearm
8 from inside the car.

9 A That's correct.

10 Q Can you explain what we are seeing in that picture.

11 A Well, that's the red Toyota Yaris that I was driving the
12 day of the events on November 2nd. And in the front, in the
13 windshield, it has the impact of the bullet that was
14 discharged.

15 Q And that bullet in the windshield, who made that?

16 A I did.

17 MS. GARCIA-JIMENEZ: Permission to publish
18 Government Exhibit 101, Your Honor, without objection of the
19 Defense.

20 THE COURT: Any objection, Ms. Valldejuli?

21 MS. VALLDEJULI-PEREZ: No, Your Honor.

22 THE COURT: Without objection, admitted as
23 Exhibit 101.

24 BY MS. GARCIA-JIMENEZ:

25 Q Agent, do you recognize what's in this picture?

1 A Yes.

2 Q Can you explain to the jurors.

3 A Well, this is the evidence that was seized on that day.

4 You have the black and tanned carbon 15 rifle. We have the
5 black rifle. And we have the black bag, which had all these
6 rounds in it, together with the chargers.

7 Q Okay. And this picture was taken where?

8 A Drug Division of San Juan.

9 Q Agent, once again, the person that you saw throwing all
10 these items out of the window, who is it?

11 A Jean Carlos Benitez-Melendez (indicating).

12 MS. GARCIA-JIMENEZ: We don't have any more
13 questions, Your Honor.

14 THE COURT: Cross-examination?

15 **CROSS-EXAMINATION**

16 BY MS. VALDEJULI-PEREZ:

17 Q Mr. Santiago, have you given any sworn statement of the
18 events that happened on November 2nd, 2017, at Yambele Ward?

19 A Sworn statements?

20 Q Yes.

21 A Yes.

22 Q To whom?

23 A To the Rico prosecutor and to the ATF agents.

24 THE COURT: When you say the *fiscal*, do you mean
25 the State *fiscal*?

1 THE WITNESS: The State prosecutor, yes. I was
2 interviewed, and I informed them of the facts.

3 BY MS. VALLDEJULI-PEREZ:

4 Q You gave a sworn statement to the District Attorney of
5 Puerto Rico as to events of November 2nd of Yambele Ward?

6 A Correct. I was interviewed by him.

7 Q I want to clear up. Is that an interview, or was it
8 some written document signed by you?

9 A Nothing written.

10 MR. ALUM: Your Honor, we have an objection. If
11 this is for impeachment purpose -- may we approach?

12 THE COURT: Of course.

13 (Whereupon, the following proceedings were held at
14 sidebar:)

15 MR. ALUM: Under the rules, if the Defense is going
16 to impeach with a prior inconsistent statement, she should
17 lay out, "You just testified X. Isn't it true that you
18 previously gave a statement to so-and-so saying Y?" She has
19 not done that.

20 THE COURT: You have to lay the foundation
21 argument.

22 MR. ALUM: Exactly. She has to lay the foundation
23 as to what the impeachment is. She doesn't get to just
24 immediately ask the agent, "You said this to this Prosecutor.
25 You said this to that agent," because that is inappropriate

1 under the Rules of Evidence.

2 MS. VALLDEJULI-PEREZ: Your Honor, that's what I am
3 going to do now. I was just asking -- and precisely, I am
4 clearing it up, because he said that he gave a sworn
5 statement. Anywhere in that sworn statement --

6 THE COURT: That he was interviewed.

7 MS. VALLDEJULI-PEREZ: Exactly. And that's not a
8 sworn statement. He was confused. So I was just figuring
9 out if he had given any written sworn statement signed by
10 him.

11 THE COURT: And he said no.

12 MS. VALLDEJULI-PEREZ: He said no.

13 THE COURT: So that's it.

14 MS. VALLDEJULI-PEREZ: Exactly. I was just
15 clearing it up whether he had given any sworn statement. At
16 the beginning he said, yes, to the District Attorney. I knew
17 that it was not. ATF was just an interview. Clear up that
18 it was an interview. That is not a sworn statement. I
19 cannot use that.

20 THE COURT: So what are you going to do with the
21 interview?

22 MS. VALLDEJULI-PEREZ: Nothing.

23 THE COURT: Okay.

24 MS. VALLDEJULI-PEREZ: I only was verifying whether
25 besides a sworn statement that is signed by him, that was

1 given by the Government to me on Friday, is the only document
2 that's signed by him that he has given, yes or no.

3 MR. ALUM: That's the use of force report.

4 Your Honor, our objection is that the Defense
5 should not be able to get into any prior statements without
6 laying the foundation that anything that he has testified to
7 is inconsistent with the prior statement. So just the mere
8 question as to any prior statements, it's improper.

9 MS. VALLDEJULI-PEREZ: No, Your Honor, because I am
10 just asking whether he has given one.

11 THE COURT: He said no.

12 MS. VALLDEJULI-PEREZ: No.

13 THE COURT: So that's it.

14 MS. VALLDEJULI-PEREZ: Exactly.

15 THE COURT: So what is this for?

16 MS. VALLDEJULI-PEREZ: But this is a statement,
17 this is a statement signed by him that this I can use it.

18 THE COURT: For what?

19 MS. VALLDEJULI-PEREZ: If there is in here, there
20 are -- the version that it is given here, there are things
21 that he has testified here that are not in that statement.

22 THE COURT: Well, it has to be different from what
23 he testified.

24 MS. VALLDEJULI-PEREZ: Exactly. And I understand
25 that there are differences between what he has testified

1 today and what was said by him in that statement signed by
2 him.

3 THE COURT: Let me see.

4 What is in here that is different from what he
5 testified?

6 MS. VALLDEJULI-PEREZ: Well, for example,
7 Your Honor, he doesn't say that he identified the person.

8 MS. GARCIA-JIMENEZ: Yes, he does.

9 THE COURT: Wait a minute. Wait a minute.

10 So what you are saying is that, in this statement
11 that he signed, he doesn't say that it was the Defendant.

12 MS. VALLDEJULI-PEREZ: That's one of the things
13 because he also signed the other part. It's just that in the
14 front page -- this is the document that the police --

15 THE COURT: It's got the guy's name right here
16 (indicating).

17 MS. VALLDEJULI-PEREZ: Okay.

18 THE COURT: This entire document is his statement.
19 Not just this page.

20 MS. VALLDEJULI-PEREZ: Well, if it's in the
21 narrative on how the events happened, which is the most
22 important part of hearing in this case --

23 THE COURT: Such as?

24 MS. VALLDEJULI-PEREZ: Such as, he says here that
25 he saw the person coming out of the car. He doesn't say that

1 in the narrative. That was when he saw him with the rifle.
2 He said that he was in the passenger's seat with the rifle.
3 They are two different things, Your Honor.

4 And, secondly, he says that he -- when they saw
5 them, they flew. But in there it said that they called the
6 patrol car, and the patrol car put the sirens and the lights,
7 and that is when they flew. It's two different things.

8 And, third, I don't remember exactly what else is
9 there.

10 THE COURT: Do you have this in English?

11 MS. VALLDEJULI-PEREZ: Yes, I have the translation
12 in English.

13 THE COURT: Okay. Well, remember you have to lay
14 the foundation as to what this is.

15 MS. VALLDEJULI-PEREZ: Yes, Your Honor.

16 THE COURT: And then we will take it from there.

17 (Back on the record.)

18 BY MS. VALLDEJULI-PEREZ:

19 Q Mr. Santiago, you have testified here that at a distance
20 of 30 to 35 feet from where you were standing --

21 THE COURT: First, lay the foundation.

22 MS. VALLDEJULI-PEREZ: Your Honor, I am going to
23 other questions before this one.

24 THE COURT: You have to lay a foundation before you
25 ask specific questions about whatever document it is that you

1 have.

2 MS. VALLDEJULI-PEREZ: Yes.

3 BY MS. VALLDEJULI-PEREZ:

4 Q You testified here that you saw the Suzuki car and the
5 passenger opening a door and showing a rifle about 30 to
6 35 feet from where you were; correct?

7 A Correct.

8 Q 30 or 35, more or less, will be how far away from where
9 you are standing?

10 A Approximately like from here to the door.

11 Approximately.

12 Q And before that day, you only saw the photograph several
13 times that was shown to you just a moment?

14 A Yes. I had seen it on many occasions, yes.

15 Q But you have never seen him in person? Only through the
16 photograph.

17 A Correct, yes.

18 Q Okay. And you said that you saw that the Suzuki car was
19 stopped, and you saw that this black person opened the door
20 and showed a rifle.

21 A That's not what I said.

22 Q Well, you said that -- what did you say?

23 A That Jean Carlos Benitez-Melendez opened the door.

24 Q And showed the rifle.

25 A He didn't show it to me. He was carrying it. And

1 that's very different than showing it.

2 Q And after that, you called several other patrol cars to
3 stop him, but he continued driving.

4 A Not me. Officer Monroig was the one who informed it
5 through the radio. I was driving the car.

6 Q But you testified that, after that happened, the car
7 continued riding, and you followed them.

8 A Yes, I followed.

9 Q And they were already fleeing from you.

10 A When they leave for first time that they turned left,
11 there I don't know if they were turning that way because of
12 me. But then they turned to the left. And initially they
13 were going slow.

14 Q And so at that time they didn't, according to you,
15 recognize that you were following them.

16 MR. ALUM: Objection, Your Honor. That goes to
17 speculation.

18 THE COURT: That's speculation. I know what you
19 are getting at, but rephrase the question.

20 BY MS. VALDEJULI-PEREZ:

21 Q Then at what moment you said that there was a moment
22 when they start fleeing from the scene?

23 A When they saw the patrol cars, and they saw the vehicle
24 from Emanuel Torres that passed in front.

25 Q The car from Emanuel Torres was an unmarked car.

1 A Correct, an unmarked car.

2 Q And this unmarked car from Emanuel Torres, he tried to
3 block them.

4 A That I don't know. You have to ask Officer Emanuel
5 Torres.

6 Q It's that I understand that you testified that when he
7 tried to block him, Emanuel Torres, they evade the car and go
8 into the side street.

9 A I specified that he came out from the front. But I
10 didn't say if Emanuel Torres was trying to block him. You
11 would have to ask him that.

12 Q And you were behind his car all the time when this was
13 happening.

14 A Correct. At that specific time, I was behind him.

15 Q What was doing the patrol car that you said that was
16 there also?

17 A The patrol vehicles were on Julio Aybar Street. For
18 example, if you had Emanuel Torres' vehicle, that was in
19 intersection of Alfonso Street, then you had two patrol cars
20 that were a little bit behind Emanuel Torres' vehicle.

21 THE COURT: Was Mr. Emanuel Torres in a marked
22 patrol car or in an unmarked vehicle?

23 THE WITNESS: An unmarked vehicle. It doesn't have
24 any sirens or police lights.

25 THE COURT: So your testimony is that patrol cars

1 were behind Mr. Torres?

2 THE WITNESS: Yes, Your Honor.

3 If I am on Rafael Alfonso Street, there are the
4 intersection. Emanuel Torres' vehicle is in front of --
5 facing the Suzuki SX4. The Suzuki SX4 turns right. And then
6 to the right you have the patrol cars, which were on the way.

7 THE COURT: And when did the Suzuki go on the
8 sidewalk to evade?

9 THE WITNESS: When it sees the unmarked vehicle of
10 Officer Emanuel Torres. When it sees that vehicle.

11 BY MS. VALLDEJULI-PEREZ:

12 Q It's then when he sees the unmarked car of Emanuel
13 Torres that they started to flee the scene.

14 A When they are in front of him.

15 Q And Emanuel Torres was not able to stop the vehicle.

16 A There you would have to ask him because I don't know
17 what Emanuel Torres' intentions were.

18 Q And what was about the patrol cars that had the sirens
19 and the lights?

20 A They were supposed to stop the vehicle.

21 Q Did they stop at some time or try to stop the vehicle at
22 some time?

23 A They tried, and he evaded.

24 THE COURT: So he evaded Mr. Torres' unmarked
25 vehicle, and he also evaded the patrol cars?

1 THE WITNESS: Correct.

2 BY MS. VALLDEJULI-PEREZ:

3 Q I will show you a statement that you gave to the Police
4 of Puerto Rico. I want you to review it.

5 MS. VALLDEJULI-PEREZ: Your Honor, may I approach?

6 THE COURT: Please review the entire document,
7 Mr. Santiago.

8 THE WITNESS: I reviewed it.

9 BY MS. VALLDEJULI-PEREZ:

10 Q This is a document that you were required to make after
11 an incident like that, what happened on November 2nd of 2017.
12 It's part of your work.

13 A This is a use of force.

14 Q It was submitted by you in compliance with the
15 regulations of Police of Puerto Rico.

16 A Correct.

17 Q And in this case going to page 3. That is a narrative
18 section where you explain in your own words what happened;
19 correct?

20 A Correct.

21 Q And this one was made on -- what is the date of this
22 that you filled out this document?

23 A I don't remember the date. I have to verify when it was
24 made, but...

25 Q Please check in this document when it was made.

1 A It was submitted November 9.

2 Q Seven days after the events; correct?

3 A Correct.

4 Q According to the narrative in this section, it says
5 that, "At the Yambele Ward, I observed a gray Suzuki vehicle
6 with tag HFI-011 a passenger, a black complexion individual,
7 black T-shirt, carrying a black-colored long weapon."

8 A Correct.

9 And page 1, the name of Jean Carlos
10 Benitez-Melendez. That's where you put the person in
11 question in this case.

12 Q You did not specify in this line that you saw him when
13 he opened the door and was carrying this weapon; correct?

14 A This is a use of force.

15 Q Agent Monroig proceeded to transmit by way of police
16 radio the description of the gray-colored Suzuki vehicle and
17 that the passengers were armed. The marked patrol car
18 proceeded to stop them by way of flashing lights and siren
19 and they flee.

20 That's what you said in this statement; correct?

21 A Correct. I also said it here.

22 THE COURT: Let me ask you something, Mr. Santiago,
23 because when -- you were asked a question, that you did not
24 specify that you saw him when he opened the door and was
25 carrying a weapon, you said, "This is a use of force." What

1 do you mean by that?

2 THE WITNESS: Yes, Your Honor. This document is to
3 specify a short narrative of the use of force that I
4 employed.

5 THE COURT: That you did?

6 THE WITNESS: Correct. Which would be the shot
7 that I fired with my firearm. It's not a sworn statement.

8 THE COURT: Okay. Go ahead.

9 BY MS. VALLDEJULI-PEREZ:

10 Q Anywhere there you specify that Emanuel Torres was also
11 trying to stop the car?

12 MR. ALUM: We have an objection, Your Honor.

13 THE COURT: Let me ask you this: Would that type
14 of information, that Mr. Torres was trying to stop the car,
15 would that appear in a report of use of force?

16 THE WITNESS: No. No.

17 BY MS. VALLDEJULI-PEREZ:

18 Q You stated here that you didn't know if the patrol car
19 was able to stop the car, and you said here that they
20 proceeded by flashing lights and siren, but they flee;
21 correct? That's what it says here?

22 A I didn't understand the first part of the question.

23 Q You didn't know where was the patrol car, if the sirens,
24 it was behind Emanuel Torres' car; correct?

25 A I didn't say that I didn't know.

1 Q They were behind Emmanuel's car?

2 A I said that they were behind his car.

3 Q Well, you said here that it was the patrol car who
4 proceeded to stop them.

5 A Because the patrol car does use the light, the police
6 lights and the siren.

7 If as a police officer I use the police lights and
8 siren, it's because either I have an emergency, or I am
9 ordering a vehicle to stop.

10 Q So it was the patrol car who was trying to stop them.
11 It was not Emanuel Torres in the unmarked car.

12 A Of course. Yes.

13 Q And according to this document where you made the
14 detonation, there was no other witness present.

15 MR. ALUM: Objection, Your Honor. This is rank
16 hearsay. No foundation has been laid.

17 THE COURT: Sustained.

18 BY MS. VALLDEJULI-PEREZ:

19 Q There was a -- when you made the detonation to the
20 Suzuki car, there was no other witness behind Monroig;
21 correct?

22 A I am not understanding that question.

23 THE COURT: The other person in the car with you
24 was whom?

25 THE WITNESS: Who was inside the vehicle with us?

1 THE COURT: That's my question.

2 THE WITNESS: Officer Monroig, myself also. Nobody
3 else.

4 BY MS. VALLDEJULI-PEREZ:

5 Q When you shot at the passenger in the Suzuki, the only
6 person that was present was Monroig-Vega; correct?

7 A In the vehicle, yes.

8 Q You have testified here that you followed all the time
9 the Suzuki.

10 A That I followed, yes. I was chasing him.

11 Q In the moment that you made the shooting to the Suzuki
12 car, how did you do that?

13 A Taking out my firearm and pulling the trigger. There is
14 no other way.

15 Q Through the windshield?

16 A Yes.

17 Q You only made one shot?

18 A That's correct.

19 Q And the shot get into the car, hit the Suzuki, do you
20 know?

21 A I don't know. In the chase, I can't specify if I hit it
22 or not.

23 Q When you said that the passenger in the corner of the
24 street shot at your vehicle or you, you stated that he had a
25 handgun that was taken outside of the window.

1 A A firearm, a pistol-type firearm, yes.

2 Q That was taking his hands outside of the window.

3 A I do not understand the question. I understand it, but
4 I don't understand what she means.

5 THE COURT: Let me see if I can clear it up.

6 When you say that Mr. Jean Carlos Benitez fired at
7 you with a pistol -- you testified as to that?

8 THE WITNESS: Correct, yes.

9 THE COURT: The question is whether his hands were
10 outside the window or just the pistol?

11 THE WITNESS: What I could see at the time of the
12 chase was that the pistol was going outside the window, that
13 the window was down and that the pistol was outside. It
14 wasn't inside.

15 BY MS. VALDEJULI-PEREZ:

16 Q In that corner was that the shooting occurred. The only
17 shooting that you are testifying today occurred in that
18 corner; correct?

19 A What corner?

20 Q In the corner of Santiago Correa and Antonio Arroyo
21 Street.

22 A Correct, yes.

23 Q And how many shells were recovered in that area?

24 A That I don't know.

25 Q This is the corner where you allege that the shooting

1 occurred.

2 A That's correct.

3 Q And how many shells do you see in that area?

4 A One. One shell.

5 Q Do you know if that shell was recovered by the police?

6 A I believe so. If it's marked, it was recovered.

7 Q I ask you at this moment, your weapons were seized after
8 the events of that day?

9 A Yes.

10 Q And what type of weapon did you have?

11 A A Glock 23.

12 Q And do you know what was the weapon that was carrying
13 your co-worker, Monroig?

14 A A Smith & Wesson.

15 Q Do you know to what of those weapons or any other weapon
16 this shell corresponds?

17 A I don't know. I don't know.

18 Q Do you know if any testing was made of this shell?

19 A That I don't know.

20 THE COURT: You don't know the caliber of the
21 bullet that was --

22 THE WITNESS: I don't remember, Your Honor. That
23 was the investigation of the CIC.

24 BY MS. VALLDEJULI-PEREZ:

25 Q You testified that all the time you have followed the

1 Suzuki all the way to the Bulon Street; correct?

2 A Bulon Street, yes.

3 Q This chasing must have lasted about 20 minutes or less
4 than that.

5 A No. Much less.

6 Q Five minutes?

7 A I couldn't tell you specifically, but it wasn't 10 or 20
8 minutes. It was pretty fast.

9 Q You also testified that you went after them when they
10 went out of the Suzuki car.

11 A When they got out of it?

12 Q Yes.

13 A Yes.

14 Q I ask you, are you familiar with that Bulon passage way
15 that goes to the San Fernando Housing Project?

16 A Yes.

17 Q How long is that pass road from where the car stops and
18 the entrance to the San Fernando?

19 A Well, that's a street that goes by -- goes through to
20 almost the other side of San Fernando.

21 THE COURT: But the question is, how far or how
22 long is the street from the corner where the Suzuki stopped
23 until the entrance to the Public Housing Project?

24 THE WITNESS: To the entrance, practically very
25 short. There is a body shop right there at the intersection.

1 And right after that, that's where the wall of the housing
2 project begins.

3 BY MS. VALLDEJULI-PEREZ:

4 Q There is -- in that same street there is a parking lot
5 for the cars that pertains to the San Fernando Housing
6 Project; correct?

7 A There is a parking lot in that area, yes.

8 Q To the left?

9 A Correct.

10 Q And there is also a pedestrian pass way to go inside the
11 San Fernando Housing Project.

12 A That part I don't remember right now. There is a
13 sidewalk, and there is a sidewalk to the left, but on the
14 right I don't remember right now.

15 THE COURT: The question is whether there is a
16 pedestrian entrance to the public housing project.

17 THE WITNESS: I haven't seen it.

18 BY MS. VALLDEJULI-PEREZ:

19 Q To the left side where the cars are parked.

20 A No, I haven't seen it. I haven't noticed that.

21 Q You didn't enter into the San Fernando Public Housing
22 Project after they entered into the Public Housing Project;
23 correct?

24 A If I went in after they went in? No.

25 Q After you lost them in the San Fernando Housing Project,

1 you came back to the place where the Suzuki was abandoned and
2 your car was also.

3 A Correct.

4 Q At that time you testified that you saw inside the
5 Suzuki car.

6 A Yes, I observed. Yes.

7 Q At that time the Suzuki doors were opened or were
8 closed?

9 A The driver's side door was open.

10 Q And the passenger's door?

11 A No.

12 Q Okay. I am showing you what has been marked as
13 Government Exhibit 54.

14 This was where you saw --

15 THE COURT: This is not into evidence.

16 Do you have any objection, Mr. Alum?

17 MR. ALUM: No, Your Honor.

18 THE COURT: Without objection, admitted as
19 Exhibit 54.

20 BY MS. VALLDEJULI-PEREZ:

21 Q This is where you observed that day in the Suzuki car
22 where it was abandoned?

23 A Yes, I observed that car.

24 THE COURT: Excuse me. This would be Defendant's
25 exhibit. Although we will keep the number, it's a

1 Defendant's exhibit.

2 Go ahead.

3 BY MS. VALLDEJULI-PEREZ:

4 Q You observed that there is a cable and several objects
5 in the floor of the car; correct?

6 A Yes. I don't remember specifically, but, yes, I believe
7 so. There is a cup.

8 Q Do you remember seeing this also, this Arizona can in
9 the front passenger's side of the car?

10 A I don't remember that, no.

11 Q You remember having seen any shells from the weapon
12 inside the car? Any shell inside the car?

13 A No.

14 Q The Suzuki car?

15 A No.

16 Q After you -- did you get into the car or obtained
17 objects from the car at that time?

18 A No.

19 Q Before the technical services came?

20 A No.

21 Q And when the technical services came, how long it took
22 for the technical services to come in the scene?

23 A I don't remember, as I specified. I don't remember how
24 long it took them to get to the area.

25 Q You were there when they arrived?

1 A Yes.

2 Q And who was giving instructions to the technical
3 services officers?

4 A Instructions to them?

5 Q Yes.

6 A They know what they have to do. I understand that no
7 instructions need to be given to them.

8 Q Did they take -- do you know if they took fingerprints
9 from any anything inside the car, of the Suzuki car?

10 A That I don't remember, no.

11 Q Did you ask them to take fingerprints?

12 A Me? No. No.

13 Q Do you know if they took photographs of everything that
14 was inside the car; correct?

15 A That, yes.

16 Q And you remember if within those photographs, when they
17 were taking the photographs, they photographed any shell
18 inside the Suzuki car?

19 A The rifle bullet that was in the back part of the car,
20 but that's not a shell per se. That's the round, the
21 munition.

22 Q So none of the photographs that were taken that day
23 reflects that there was a shell, they found a shell inside or
24 some shells inside the Suzuki car?

25 A Correct. I understand that they didn't find any.

1 Q Did technical services also took photographs of your
2 car, the unmarked car of the police?

3 A Correct.

4 Q Did they -- there was at any time any shot that you
5 allege that the passenger of the Suzuki car made to your car,
6 if your car was hit with any of the shots?

7 A No. No.

8 Q How far was your vehicle from the Suzuki when you made
9 the shots?

10 A Approximately some 30 feet.

11 Q Which is from here to the --

12 A Approximately.

13 Q And at that time, in no time did the passenger went out
14 of the car to make the shots?

15 A As I mentioned before, the firearm that the gentleman
16 here present was carrying, part of it was outside the
17 vehicle.

18 Q And when those shots were made, was the Suzuki and your
19 car moving?

20 A Yes, that was -- yes.

21 Q Did you know if the passenger or the driver of the
22 Suzuki car was wounded during the shooting?

23 A I don't know.

24 Q Did you identify at any time who was the driver in this
25 car?

1 A No.

2 Q Have you done any scene after November 2, 2017, to
3 identify who was the driver of the car?

4 A I don't understand the question, Your Honor.

5 THE COURT: Have you had an opportunity or has
6 anyone had an opportunity to identify the driver of the
7 Suzuki?

8 THE WITNESS: No, Your Honor. I haven't seen them
9 again, the gentlemen. And practically what I saw was the
10 back of him. I didn't see him in front.

11 BY MS. VALLDEJULI-PEREZ:

12 Q To this day, the only evidence that you have that Jean
13 Carlos was in that gray Suzuki is that you recognize him from
14 a photo shown to you before?

15 A The only evidence there is?

16 Q No. To this day --

17 THE COURT: Excuse me. The only reason you
18 identified Mr. Benitez is because you had seen his photograph
19 before.

20 THE WITNESS: And I knew who he was, yes.

21 BY MS. VALLDEJULI-PEREZ:

22 Q And to this day, that's the only evidence that you have
23 that Jean Carlos was the one who was in that car.

24 A Well, when I served him, I saw him. At the location he
25 was in the vehicle, and he shot me with the firearm.

1 Q But besides what you claim you saw, there is no other
2 evidence?

3 A I saw him on several occasions.

4 Q On that day?

5 A Of course.

6 Q And that's the only evidence you have?

7 A I saw him there, yes.

8 THE COURT: Well, the Government is the one who has
9 evidence. Not him.

10 BY MS. VALLDEJULI-PEREZ:

11 Q You did not detain him at any time.

12 A No.

13 Q You were never able to speak with him on that date.

14 A No.

15 Q You were never able to be close to him and to ascertain
16 that he was the one who was in the picture.

17 A Yes.

18 Q From your car?

19 A Of course.

20 Q From 30 to 35 feet?

21 A Of course. Yes. Pretty close.

22 MS. VALLDEJULI-PEREZ: Your Honor, I have no more
23 questions.

24 THE COURT: Do you have any redirect?

25 MS. GARCIA-JIMENEZ: If you give me 30 second,

1 Your Honor.

2 THE COURT: Five minutes. No more than five
3 minutes, your redirect.

4 MS. GARCIA-JIMENEZ: Of course, Your Honor.

5 **REDIRECT EXAMINATION**

6 BY MS. GARCIA-JIMENEZ:

7 Q Agent, at the beginning of the cross-examination,
8 attorney sister counsel asked you about the report.

9 A The use of force.

10 Q Correct. In that report, in any part of that report,
11 did you mention Jean Carlos Benitez?

12 A Correct.

13 Q Can you explain them exactly at what part of that report
14 did you mention him?

15 A First page.

16 Q And you mentioned him as what?

17 A Mr. Jean Carlos Benitez-Melendez.

18 Q And that he did what?

19 A He pointed me with a firearm and made several shots at
20 me.

21 Q You also mentioned here that you were able to see Jean
22 Carlos Benitez's photographs on several occasions; correct?

23 A Correct.

24 Q Did you have any other information regarding his
25 physical appearance?

1 A Correct.

2 Q Can you tell them what.

3 A A tall, dark-skinned man, approximately 180 pounds.

4 Q Is Jean Carlos a tall person?

5 A Yes.

6 Q Sister counsel asked you if you detained Jean Carlos

7 Benitez on November 2nd; correct?

8 A Yes.

9 Q Can you tell us couldn't you arrest him?

10 A Because he escaped, and he went into the San Fernando

11 Housing Project, which is a place -- it's a high crime rate

12 area.

13 Q Last but not least, sister counsel asked you once again

14 that the Suzuki, gray Suzuki ran away from the patrols;

15 correct?

16 A Yes.

17 Q Did that car crash with something?

18 A He crashed into some -- the car crashed into some trees

19 that were there. Some palm trees on the sidewalk.

20 THE COURT: Which car?

21 THE WITNESS: The Suzuki SX4.

22 BY MS. GARCIA-JIMENEZ:

23 Q What part of that Suzuki?

24 A The right side of the Suzuki, the passenger's side.

25 Q I am going to show you exhibit --

1 MS. GARCIA-JIMENEZ: Permission to publish

2 Exhibit 48, Your Honor.

3 THE COURT: Any objection?

4 MS. VALDEJULI-PEREZ: No, Your Honor.

5 BY MS. GARCIA-JIMENEZ:

6 Q Can you explain what is that side of the car?

7 A Yes. This is the right side of the vehicle.

8 Q Can you tell us what we see in that side of the car.

9 A It has a scrape on the back right side door and also
10 part of it in the front right side door.

11 Q What side of the car touched the palms, you saw that it
12 touched the palms?

13 A The right. That part (indicating).

14 MS. GARCIA-JIMENEZ: No other questions,
15 Your Honor.

16 THE COURT: Ladies and gentlemen, let's take a
17 10-minute break.

18 (Whereupon, the following proceedings were held in
19 the absence of the jury:)

20 THE COURT: Mr. Santiago, you are excused. Thank
21 you for your testimony.

22 (Witness excused.)

23 MR. ALUM: Judge, just for housekeeping matter, how
24 late do we expect to go today?

25 THE COURT: Well, your next witness will take how

1 long?

2 MR. ALUM: The direct we anticipate will be fairly
3 short. Maybe half an hour. The cross --

4 THE COURT: We can go till say 5:30 or so.

5 MR. ALUM: Okay. Fine.

6

7 (PROCEEDINGS SUSPENDED AT 4:10 P.M.)

8 (PROCEEDINGS RESUMED AT 4:35 P.M.)

9

10 THE COURT: Please be seated.

11 Before we begin, there is something that we are
12 confused up here. Exhibit 54, which was introduced by the
13 Defense, is a photograph of the side of the front passenger's
14 seat, if I remember correctly.

15 MR. ALUM: Exhibit 54 --

16 THE COURT: That was presented by the Defense.

17 MR. ALUM: That's Exhibit 54.

18 MS. GARCIA-JIMENEZ: Yes, Your Honor.

19 THE COURT: So what we are going to do, although
20 it's marked as your ID 54, we are going to make it Defense
21 Exhibit A.

22 MR. ALUM: Okay.

23 THE COURT: And then the photograph of the
24 refreshment can, I believe was also used by the Defense; is
25 that correct?

1 MS. GARCIA-JIMENEZ: Correct, Your Honor.

2 THE COURT: No one requested that it be admitted
3 into evidence, but it was shown to the jury.

4 Do you have any problem with that?

5 MR. ALUM: No.

6 THE COURT: That will be Defense Exhibit B, which
7 was Government ID 70.

8 MS. VALLDEJULI-PEREZ: Your Honor, before the jury
9 is bring in, I want to request a transcript of the testimony
10 of the two police officers. Not the first one. This one and
11 the one that is coming after this one.

12 THE COURT: You want it by tomorrow?

13 MS. VALLDEJULI-PEREZ: Yes.

14 THE COURT: Okay. So Mr. Santiago and whoever is
15 the next witness.

16 MR. ALUM: Arnaldo Monroig.

17 MS. VALLDEJULI-PEREZ: Of those two.

18 THE COURT: You are appointed under CJA?

19 MS. VALLDEJULI-PEREZ: Yes, Your Honor.

20 THE COURT: Bring the jury in, please.

21 (Whereupon, the following proceedings were held in
22 the presence of the jury:)

23 THE COURT: Please be seated, ladies and gentlemen.

24 Before we start, I just want to -- one thing that
25 was a bit confusing, and that is, the two exhibits that were

1 presented by the Defense. If you remember, the first exhibit
2 was a photograph of inside the Suzuki next to the driver's
3 seat. Remember that? Okay. And the Government had marked
4 that as Exhibit 54. But to eliminate any type of confusion
5 for us, not for you because you don't have to look at
6 numbers, we are going to mark that as Defense Exhibit A.

7 And the next exhibit, the one with the can is
8 Defense Exhibit B. Okay? All right.

9 Next witness, please.

10 MR. ALUM: Yes. Thank you, Your Honor.

11 At this time, the Government calls Police Officer
12 Arnaldo Monroig.

13

14 **ARNALDO MONROIG-VEGA,**

15 after having been first duly
16 sworn or affirmed upon oath, was examined
17 and testified as follows:

18

19 THE COURT: Mr. Monroig, you will be testifying in
20 Spanish?

21 THE WITNESS: Could you repeat the question.

22 THE COURT: Are you going to testify in Spanish?

23 THE WITNESS: Correct.

24 THE COURT: So when you testify in Spanish, you
25 have to stop your testimony whenever the interpreter requests

1 you to stop so that he can interpret or translate your
2 testimony into English.

3 Do you understand that?

4 THE WITNESS: Correct.

5 THE COURT: Please testify in a clear voice and
6 into the microphone.

7 MR. ALUM: Thank you, Your Honor.

8 THE COURT: You may proceed, Mr. Alum.

9 MR. ALUM: Thank you.

10 **DIRECT EXAMINATION**

11 BY MR. ALUM:

12 Q Good afternoon, sir.

13 A Good afternoon.

14 Q Please state your name for the record.

15 A My name is Officer Arnaldo Monroig-Vega.

16 Q What do you do for a living?

17 A I work for the Puerto Rico Police.

18 Q Are you assigned to any particular unit?

19 A I work for the Drug Division San Juan.

20 Q What are your responsibilities as a police officer with
21 the San Juan Drug Unit?

22 A I perform investigations to drug trafficking
23 organizations, controlled substances, and firearms.

24 Q And, Agent Monroig, how long have you been a police
25 officer?

1 A 15 years.

2 Q Now, Agent Monroig, directing your attention to the date
3 of November 2nd, 2017, did you participate in any type of
4 operation in Yambele Ward?

5 A Correct.

6 Q And at what time -- and did you go to Yambele Ward?

7 A Correct.

8 Q At approximately what time?

9 A Approximately 5:30, 6:00 in the afternoon.

10 Q And who were you with?

11 A With Officer Luis Santiago-Malave.

12 Q How did you get to Yambele?

13 A In an unmarked vehicle.

14 Q Can you describe that vehicle.

15 A Yes. It's a two door red vehicle.

16 Q Who drove?

17 A Officer Luis Santiago-Malave.

18 Q And where were you within the vehicle?

19 A I was in the front passenger's side.

20 Q Now, Agent Monroig, what was the purpose of you going to
21 Yambele?

22 A To obtain information and also locate -- to make a
23 location, because Mr. Jean Carlos Benitez-Melendez lived
24 there.

25 Q And prior to November 2nd --

1 THE COURT: Excuse me.

2 What were you trying to locate?

3 THE WITNESS: The home where Mr. Jean Carlos
4 Benitez lived.

5 THE COURT: Go ahead, Mr. Alum.

6 MR. ALUM: Thank you, Your Honor.

7 BY MR. ALUM:

8 Q Let me ask you, Agent Monroig, prior to November 2nd,
9 had you ever seen Mr. Jean Carlos Benitez?

10 A Yes. In a poster at the San Juan Drug Division.

11 Q Approximately how many times had you seen -- I am going
12 to show you -- I am showing you Government Exhibit 123.

13 Do you recognize that photograph?

14 A Correct.

15 Q And what is that a photograph of?

16 A Of the poster that was located in the San Juan Drug
17 Division.

18 Q And who is depicted in that photograph?

19 A Jean Carlos Benitez-Melendez.

20 Q Now, approximately how many times did you see this
21 photograph prior to November 2nd, 2017?

22 A Over 50 times.

23 Q The person who is depicted in that photograph, sir, do
24 you see him in court today?

25 A Correct.

1 Q Would you please point him out and identify an article
2 of clothing that he is wearing.

3 A Yes. The gentlemen is seated here to my left and has a
4 long-sleeve shirt (indicating).

5 MR. ALUM: Your Honor, may the record reflect that
6 the witness has identified the Defendant.

7 BY MR. ALUM:

8 Q Now --

9 MR. ALUM: Your Honor, without objection from the
10 Defense, the Government is now moving into evidence
11 Government ID 122 as Government Exhibit 122.

12 THE COURT: Any objection, Ms. Valldejuli?

13 MS. VALLDEJULI-PEREZ: No, Your Honor.

14 THE COURT: Without objection, admitted as
15 Government Exhibit 122.

16 You can publish it, Mr. Alum.

17 MR. ALUM: Yes, Your Honor.

18 BY MR. ALUM:

19 Q Agent Monroig, up on your screen is Government
20 Exhibit 122.

21 Do you recognize what is in that photograph, sir?

22 A Yes.

23 Q What are we seeing there?

24 A That's the home in which Jean Carlos Benitez-Melendez
25 lived in in the Yambele Ward.

1 Q And who took that photograph?

2 A I did.

3 Q When?

4 A November 2nd, 2017.

5 THE COURT: Could you circle his house, the
6 Defendant's house.

7 THE WITNESS: (Witness complies.)

8 BY MR. ALUM:

9 Q And let me ask you, did you take that photograph -- did
10 you go to the Yambele Ward on November 2nd, 2017?

11 A Correct.

12 Q And did you take that photograph when you went there at
13 approximately 5:30 in the afternoon, which is the time that
14 you earlier testified you went to the Yambele Ward?

15 A Correct.

16 Q Now, Agent Monroig, after you took that photograph, did
17 you ever encounter physically Mr. Jean Carlos
18 Benitez-Melendez?

19 A Not at the time of the picture.

20 Q How about after you took that photograph?

21 A Correct, yes.

22 Q And please describe the circumstances under which you
23 saw Jean Carlos Benitez-Melendez.

24 A After I took that picture, I proceed to get into the
25 unmarked vehicle, which was being driven by Officer Luis

1 Santiago-Malave.

2 Q Okay.

3 A We proceeded to back up through the street that gives
4 access to the Yambele Ward. Once backing up, we stopped at
5 the intersection, the street being to my left. And once
6 there, I can observe, I can see that to my left, in one of
7 the streets I can see a gray Suzuki.

8 Q And what else did you observe once -- if anything, once
9 you observed this gray Suzuki?

10 A I observed that that vehicle, the gray Suzuki, was going
11 in the direction of the Yambele Ward. The vehicle stops, and
12 I can see that -- from the Suzuki SX4 that the front
13 passenger door is open.

14 Q Agent Monroig, I am sorry to interrupt you.

15 Approximately at what distance were you from this gray Suzuki
16 when you observed what you just described?

17 A Approximately 30, 40 feet.

18 Q And please continue describing your observation.

19 A I can see that the door of the Suzuki SX4 is open.

20 Q The driver's door or the passenger's door?

21 A The passenger's door.

22 Q Once this door -- once the passenger's door is open,
23 what else did you observe?

24 A I see that a foot is put on the ground. And then I can
25 see Mr. Jean Carlos Benitez, who possessed a black firearm,

1 black rifle.

2 Q Did you immediately recognize Jean Carlos Benitez?

3 A Correct.

4 Q Did you know his name at that time?

5 A Correct.

6 Q What, if anything, did you notice about Jean Carlos
7 Benitez when he opened the passenger door of the gray Suzuki?

8 A A weapon. A black rifle.

9 Q And what did you do after you saw this?

10 A I proceeded to inform it through the police radio
11 frequency, that it was Mr. Jean Carlos Benitez, who was armed
12 with a rifle.

13 Q And then what happened?

14 A He then closes the door. He gets into the vehicle.

15 Q When you say he gets into the vehicle, did he ever fully
16 exit the vehicle?

17 A No.

18 Q Okay. So he closes the door, and then what happens?

19 A The vehicle proceeds to go on to the left.

20 Q And then what happened?

21 A The vehicle continues traveling on, and I proceed to
22 follow the vehicle without losing it from sight.

23 Q When you say that you proceeded to follow the vehicle,
24 where were you as you were following the vehicle?

25 A I was in the unmarked vehicle in the back of his

1 vehicle.

2 Q Was Mr --

3 THE COURT: I think the best translation would be
4 "behind the vehicle."

5 THE INTERPRETER: The interpreter is corrected.

6 THE COURT: Go ahead.

7 BY MR. ALUM:

8 Q Was Agent Santiago with you as you were following the
9 gray Suzuki?

10 A Correct, driving the vehicle.

11 Q So you and Agent Santiago are following the gray Suzuki
12 in your unmarked vehicle, and then what happens?

13 A After I am following it, that vehicle then accelerates.

14 Q When you say "that vehicle," which vehicle specifically
15 are you referring to?

16 A The SX4 gray Suzuki vehicle.

17 Q And once this Suzuki accelerates, what happened?

18 A At all times I continued informing through the radio the
19 descriptions of the vehicle. And this vehicle --

20 THE COURT: You mean the Suzuki?

21 THE WITNESS: The gray Suzuki, it happens upon a
22 white unmarked vehicle in front of it.

23 BY MR. ALUM:

24 Q And then what did you observe?

25 A At that time I see that the white unmarked vehicle,

1 which was being driven by Emanuel Torres, then it stops in
2 front of the vehicle and abruptly turns to the right.

3 THE COURT: Which vehicle?

4 THE WITNESS: The gray SX4 Suzuki vehicle.

5 BY MR. ALUM:

6 Q So to be clear, when you say that the -- it was the
7 Suzuki that made the abrupt turn to the right?

8 A Correct.

9 Q And then what happened?

10 A Then at that time we are on the street where the gray
11 Suzuki turned to the right, there were two marked Police of
12 Puerto Rico patrol cars.

13 Q And what did you observe next?

14 A And then at that moment the -- well, the patrol car is
15 right in the middle of the street, and I can see that the
16 gray SX4 Suzuki at that time passes in front of the patrol
17 car through the area of the sidewalk.

18 THE COURT: So let me ask you this: One of the
19 patrol cars was then stopped perpendicular to the street?

20 THE WITNESS: Correct.

21 BY MR. ALUM:

22 Q So after observing the gray Suzuki, you just testified
23 that it went on top of the sidewalk. What happened next?

24 A We proceeded traveling on, following it, Officer Luis
25 Santiago-Malave. Then the SX4 gray Suzuki turned to the

1 left, and we continued after it, after the gray SX4 Suzuki.

2 Q And to be clear, when you say "we," are you referring to
3 yourself and Agent Santiago?

4 A Correct.

5 Q So what else did you observe while following the Suzuki?

6 A Once it turns to the left, the Suzuki continues
7 traveling on a fast speed. And then I suddenly see from the
8 front passenger's side, which was where Mr. Jean Carlos
9 Benitez-Melendez was located, I see that a black and tanned
10 rifle is thrown out. In addition to that, a black bag and a
11 black rifle.

12 MR. ALUM: Permission to approach the witness,
13 Your Honor.

14 THE COURT: Yes.

15 BY MR. ALUM:

16 Q Agent Monroig, I am showing you here Government
17 Exhibit 124.

18 How does Government Exhibit 124 compare to the
19 black and tanned rifle that you just described Mr. Benitez
20 throwing from the window of the Suzuki?

21 A It's the same.

22 Q Now I am showing you Government Exhibit 126.

23 How does Government Exhibit 126 compare to the
24 rifle that you observed being -- the rifle that you described
25 Mr. Benitez throwing from the passenger's seat of the Suzuki?

1 A It's the same.

2 Q I am showing you Government Exhibit 125.

3 How does Exhibit 125 compare to the black bag that
4 you just testified you observed Mr. Benitez throwing from the
5 front passenger's seat of the Suzuki?

6 A The same.

7 Q So, Agent Monroig, after you observed Mr. Benitez throw
8 these items out the window of the Suzuki in which he was
9 riding, what did you do?

10 A I informed through the radio what Mr. Jean Carlos
11 Benitez had thrown, which were some rifles.

12 Q And did you continue -- did you and Agent Santiago
13 continue following the Suzuki?

14 A Correct.

15 Q And what else, if anything, happened as you followed the
16 Suzuki?

17 A The Suzuki continued traveling on and us without losing
18 it from sight. At this time he opens up and is going to turn
19 to the right. And at that time I can see that Mr. Jean
20 Carlos Benitez takes out a firearm with both hands, a black
21 pistol, making several shots.

22 Q When -- how far away from you -- or how far away were
23 you from Mr. Benitez when he shot at you?

24 A Approximately 30 to 40 feet.

25 Q Did you see his face?

1 A Correct.

2 Q Agent Monroig, up on your screen is Government
3 Exhibit 94.

4 THE COURT: Any objection as to this exhibit?

5 MR. ALUM: I think it was already admitted.

6 THE COURT: It's admitted?

7 MS. VALLDEJULI-PEREZ: I am not sure, but I don't
8 have any objection, Your Honor.

9 THE COURT: No, it hasn't been admitted.

10 So without objection, admitted as Exhibit 94.

11 MR. ALUM: Actually, I will show 93.

12 BY MR. ALUM:

13 Q I am showing you Government Exhibit 98 on your screen,
14 sir.

15 Is this the street where -- does that photograph
16 depict the approximate location where you were shot at?

17 A Correct.

18 Q And can you draw -- can you trace a line showing the
19 direction in which the gray Suzuki -- strike that.

20 You mentioned earlier that the Suzuki made a turn.
21 Can you trace a line of how it is that the Suzuki made that
22 turn.

23 A (Witness complies.)

24 Q And you were behind the Suzuki?

25 A Correct.

1 Q And when you were shot at, what, if anything, did you
2 do?

3 A Well, once the gray SX4 Suzuki is towards the street
4 it's making the turn, I proceeded to repel the attack, making
5 several shots towards where Jean was.

6 Q And what did your partner do? And when I say your
7 partner, I am referring to Agent Santiago.

8 A After that, we proceeded to continue to traveling on,
9 following, chasing the Suzuki SX4.

10 Q Did Agent Santiago at any point fire his weapon?

11 A I heard a shot, yes, correct.

12 Q Now, Agent Monroig, on November 2nd, did you ever
13 apprehend Jean Carlos Benitez?

14 A No.

15 Q Why not?

16 A Since he continued traveling on towards the San Fernando
17 Housing Project.

18 Q And what happened once they arrived near the -- when
19 Mr. Benitez arrived near the San Fernando Housing Project?

20 A They stopped the vehicle next to the street N Bulon.

21 Q And what happened?

22 A There I could see that Mr. Jean Carlos Benitez leaves
23 the vehicle through the front right side passenger's side.
24 Then I could also see that in the front driver's side of the
25 vehicle, another gentlemen gets out.

1 Q Were you able to identify this other individual, the
2 individual who exited the Suzuki from the front driver's
3 side?

4 A No.

5 Q Why did you not follow them into the housing project,
6 the San Fernando Housing Project?

7 A Well, since that's a high crime rate area, we didn't
8 have backup at that time.

9 MR. ALUM: May I have a moment, Your Honor?

10 THE COURT: Yes.

11 (Whereupon, an off-the-record discussion was held
12 between Prosecution Counsel.)

13 BY MR. ALUM:

14 Q Sir, how sure are you that the individual that you saw
15 with the rifle and who shot at you is Jean Carlos Benitez?

16 A 100 percent.

17 MR. ALUM: I have no further questions, Your Honor.

18 THE COURT: Cross-examination?

19 MS. VALLDEJULI-PEREZ: Yes.

20 THE COURT: Approach the bench a minute.

21 (Whereupon, the following proceedings were held at
22 sidebar:)

23 THE COURT: So how long is your cross?

24 MS. VALLDEJULI-PEREZ: Well, Your Honor, we will
25 take about half an hour. Something like that.

1 THE COURT: Why don't we wait until tomorrow.

2 MS. VALLDEJULI-PEREZ: Okay. Then I can have some
3 things that I have to discuss with them apart from the court.

4 THE COURT: Okay.

5 Are you retained or CJA?

6 MS. VALLDEJULI-PEREZ: CJA.

7 The only thing I want is the testimony of these two
8 police officers.

9 THE COURT: I understand. Okay.

10 (Back on the record.)

11 THE COURT: Well, it's 5:15, and I don't know if we
12 will finish with cross-examination by 5:30. So we will
13 recess for the day. Please be back tomorrow at 9 o'clock.

14 Tomorrow we will only work half a day because I
15 have an important matter to attend to in the afternoon. So
16 please be here so we can start right at 9 o'clock with the
17 witness' cross-examination, Mr. Monroig's cross-examination.

18 I just want to remind you before you leave, don't
19 read any newspaper article about this case. I don't think
20 any will come out, but if there is a newspaper article,
21 please don't read it. If there is anything on any radio show
22 about this case, please don't listen to it. And please don't
23 watch any television show or on the news about this case.

24 Okay?

25 So see you tomorrow at 9 o'clock, and please drive

1 carefully. See you tomorrow.

2 (Whereupon, the following proceedings were held in
3 the absence of the jury:)

4 THE COURT: Tomorrow at 9 o'clock.

5 Mr. Monroig, we haven't finished with your
6 testimony, so please be here tomorrow at 9 o'clock, and
7 please don't talk with anybody about your testimony until
8 it's absolutely done with. Okay?

9 THE WITNESS: Okay.

10

11 (PROCEEDINGS ADJOURNED AT 5:20 P.M.)

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1 REPORTER'S CERTIFICATE
2

3 I, JOE REYNOSA, Official Court Reporter for the
4 United States District Court for the District of Puerto Rico,
5 appointed pursuant to the provisions of Title 28, United
6 States Code, Section 753, do hereby certify that the
7 foregoing is a true and correct computer-aided transcript of
8 proceedings had in the within-entitled and numbered cause on
9 the date herein set forth; and I do further certify that the
10 foregoing transcript has been prepared by me or under my
11 direction.

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15
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